

**DEPARTMENT OF CHILDREN AND FAMILIES  
DIVISION OF CHILD BEHAVIORAL HEALTH SERVICES**

**Effective Date: August 1, 2008      Policy & Procedure: DCBHS-20**

**Date Issued: July 31, 2008**

**Title:** Procedures for Dispute Resolution, Administrative Review and Appeal

**I.      Purpose**

The purpose of this policy is to describe the Division of Child Behavioral Health Services (DCBHS) dispute resolution policies and procedures for level of care determinations for children, youth and young adults receiving services through DCBHS.

**II.     Scope**

This policy is limited to the dispute resolution procedures for individuals not eligible for Medicaid, NJ FamilyCare or any other Medicaid administered health benefits program. For individuals eligible for Medicaid and Medicaid administered health benefits programs including, but not limited to, NJ FamilyCare, NJ KidCare, Medicaid Special Eligibility, Medicaid Only, Medically Needy, and Special Medicaid Programs for the Aged, Blind and Disabled, appeals are conducted in accordance with N.J.A.C. 10:49, et seq.

**III.    Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Agency decision" means any decision of the Division subject to further appeal made as the result of a level of care determination, denial, reduction or suspension of service and which is not a final agency decision.

"Agency review" means an examination of a Division action that is conducted by the Division Director or his or her designee through a record and document review or by examining relevant records and documents and either convening a meeting of the relevant parties to the Division action under dispute or conducting a telephone conference.

"Appeal" means a request made by an authorized person within established timeframes for modification or reversal of a Division action or an agency decision. General complaints shall not be considered appeals.

"Appellant" means the authorized person who is requesting a reversal or modification of a Division action or an agency decision.

"Authorized person" means:

1. The parent or guardian of a minor receiving services from or applying for services of the Division;
2. An authorized representative of a parent or guardian of a minor receiving services or applying for services of the Division. Written verification of status as an authorized representative from the parent or guardian of the minor authorizing representation shall be required;
3. An emancipated minor receiving services from or applying for services of the Division;

4. An authorized representative of an emancipated minor receiving services or applying for services of the Division. Written verification of status as an authorized representative from the emancipated minor authorizing representation shall be required;

5. A young adult receiving services from or applying for services of the Division

6. An authorized representative of a young adult receiving services or applying for services of the Division. Written verification of status as an authorized representative from the young adult authorizing representation shall be required; or

7. An attorney, if written verification of the client/attorney relationship is provided.

"Business days" means the five working days of a week other than Saturday, Sunday and legal holidays.

"Division" means the Division of Child Behavioral Health Services within the Department of Children and Families.

"Division action" means a decision, plan or conduct by a Division representative within the scope of the individual's official duties, which may result in a contested case as specified in N.J.A.C. 10:6-1.2, but does not include an "agency decision" or a personnel action.

“Final agency decision” means:

1. A final decision by the Division Director or his or her designee pursuant to N.J.S.A. 9:3A-6 that adopts, rejects or modifies an initial decision by an administrative law judge;
2. An initial decision by an administrative law judge that becomes a final agency decision by operation of N.J.S.A. 52:14B-10; or
3. A Division action that becomes a “final agency decision” when the appellant does not choose to exercise his or her right to further dispute resolution.

“Involved parties” means the representative of the appellant, the Division and/or CSA and the service provider.

“Level of care determination” means a decision regarding the level and type of service that is determined to be clinically necessary.

"Record and document review" means a type of agency review, conducted by the Division Director or his or her designee, of the relevant documents and records related to a Division action under dispute.

#### IV. Procedures related to agency reviews

A. A request for an agency review shall be made in accordance with the criteria established within this policy.

B. Any person noticed of a Division action and entitled to appeal that Division action may request an agency review within 30 days of notice of that Division action, or within 30 days of learning of the Division action if notice was not received. If an individual fails to submit a request for an agency review within the time limits for

requesting an agency review as established in this policy, DCBHS may deny the agency review.

C. The appellant shall submit a written request for an agency review to the Director, Division of Child Behavioral Health Services, P.O. Box 717, Trenton, New Jersey 08625-0717.

D. The request for an agency review shall be in writing and shall contain all of the following:

1. Name and address of appellant;
2. Name and address of child, youth, or young adult receiving services through DCBHS, if the request for an agency review is made by the child, youth or young adult's legal guardian or authorized representative;
3. A brief statement of the matter under agency review;
4. A list of involved parties and/or potential witnesses, if known;
5. Reference to the law, rule, regulation or policy alleged to be violated, if known; and,
6. Any information the appellant believes would support the request for an agency review.

E. The Director or his or her designee shall conduct a record and document review in lieu of having the parties present unless the Director or his or her designee determines that an in person meeting or telephone conference is necessary.

F. Within 30 days of receipt of the written request for an agency review, and at least five business days prior to the agency review, the Division shall send the appellant written notification of whether the agency review shall be in person meeting, telephonic, or a record and document review. The notification shall indicate the issues

to be considered. If the review is to be conducted in person or via telephone, the notification shall include the time and location of the agency review.

G. The agency review process, whether in person, telephonic, or a record and document review, shall be completed no more than 60 days from the date the Division received the written request for an agency review.

H. The Division shall grant a request for postponement of an agency review only for good cause, which shall include the appellant's need for additional time to provide necessary information. The Division shall consider that an appellant has withdrawn his or her request for an agency review when the Division has not granted a postponement and the appellant:

1. Does not appear at the scheduled agency review, unless such failure is due to unavoidable causes; or

2. Does not provide the agreed upon information for the agency review within the agreed upon time limit, unless delayed for reasons beyond the appellant's control or for other good reason.

I. Participation in an agency review shall be in accordance with N.J.A.C. 10:6-1.5(e).

J. The Division shall determine whether and in what manner the child or youth's position on the matters at issue shall be ascertained and the nature of the child or youth's participation in the agency review where the outcome of the agency review shall have a direct impact on the child or children.

K. Prior to the agency review, the Division Director or his or her designee conducting the agency review, at his or her discretion, may consult with Division staff members who have information related to the issue being appealed.

L. The agency review shall include a summary of the factual basis for the Division action, in accordance with N.J.A.C. 1:1-8.2(a)5, the relevant rules and policy, a review of information gathered through prior consultation with staff, information presented orally or in writing by the appellant, information presented orally or in writing by witnesses, supporters or representatives for both the Division and the appellant, and questions asked and answered in the course of the agency review.

M. The Division Director or his or her designee conducting the agency review shall make an agency decision based on the record and the information presented at the agency review or during any consultation with other Division representatives.

N. The Division shall forward written notification of the agency decision concerning the agency review to the appellant within 30 business days of the completion of the agency review process and shall include notice of whether the appellant has a right or opportunity to appeal further and, if so, notice of the procedures for initiating further appeals, including the name, address and telephone number of the person to whom a request for further appeal is made.

O. The Division may deem waived any appeal opportunity that has not been exercised in accordance with the time frames specified in this policy, except that the Division shall not deny an appeal where the request for an appeal was delayed for reasons beyond the appellant's control.

P. If the appellant does not request further dispute resolution within 20 business days of notification of the agency decision, or is not eligible for further dispute resolution when material facts are in dispute, the agency decision shall be considered the final agency decision.

A handwritten signature in cursive script, reading "Nadezhda Robinson, Ph.D.", positioned above a horizontal line.

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Nadezhda Robinson, Ph.D., Director  
Division of Child Behavioral Health Services